

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

J&J SPORTS PRODUCTIONS, INC.,)	Case No.: 13-CV-02004-LHK
)	
Plaintiff,)	ORDER GRANTING PLAINTIFF'S
)	MOTION TO SET ASIDE DEFAULT
v.)	JUDGMENT AGAINST DEFENDANT
)	
BAUDELIA MUNGUIA, a/k/a BAUDELIA)	
MUNGUIA DE MANRIQUEZ, individually and)	
doing business as LOS MOLCAJETES,)	
)	
Defendant.)	
)	

Before the Court is Plaintiff's Motion to Set Aside Default Judgment Against Defendant, which was filed on May 13, 2014. *See* ECF No. 18. No timely response has been filed. The Court finds the motion suitable for decision without oral argument and therefore VACATES the hearing set for September 11, 2014, at 1:30 p.m. Having considered the briefing and the record in the instant case, the Court GRANTS Plaintiff's Motion to Set Aside Default Judgment Against Defendant.

In this commercial piracy case, Plaintiff alleged that Defendant unlawfully intercepted and published a boxing match on May 5, 2012. Plaintiff filed its complaint on May 1, 2013. *See* ECF No. 1. Defendant was served but did not answer. Upon Plaintiff's motion, the Clerk entered default on July 17, 2013. *See* ECF No. 11. Plaintiff then filed a Motion for Default Judgment on July 30, 2013. *See* ECF No. 12. The Court granted Plaintiff's default judgment motion on January 14, 2014,

1 awarding Plaintiff \$9,900 in total damages. *See* ECF No. 15. Plaintiff then filed a Motion to Alter
2 or Amend the Judgment on February 11, 2014, seeking an increase in statutory damages. *See* ECF
3 No. 16. The Court denied the Motion to Alter or Amend the Judgment on April 17, 2014. *See* ECF
4 No. 17.

5 On May 13, 2014, Plaintiff filed the instant motion. *See* ECF No. 18. In the motion,
6 Plaintiff indicates that it seeks to set aside the default judgment because Defendant had in fact
7 submitted payment information to Plaintiff's employee to pay for the program that was allegedly
8 intercepted and published. *See id.* at 3. This fact was not known to Plaintiff's counsel due to a
9 communication error between Plaintiff's employees. *See id.* In addition to moving to set aside the
10 default judgment, Plaintiff has also filed a Notice of Voluntary Dismissal of the instant action
11 pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i). *See* ECF No. 19.

12 The Court may set aside a judgment under Fed. R. Civ. P. 60(b)(1), when there is "mistake,
13 inadvertence, surprise, or excusable neglect." In this case, the Court finds that the judgment against
14 Defendant resulted from Plaintiff's mistake, as Plaintiff itself concedes. Plaintiff moves to
15 voluntarily dismiss this case and concedes that this "will permanently resolve this case." ECF No.
16 18 at 2. Accordingly, the Court GRANTS Plaintiff's motion and sets aside the default judgment.
17 The case is DISMISSED pursuant to Plaintiff's Notice of Voluntary Dismissal. The case file shall
18 remain closed.

19 **IT IS SO ORDERED.**

20
21 Dated: June 4, 2014



LUCY H. KOH
United States District Judge